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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/663,501	09/15/2000	Makoto Korehisa	450100-02714	2807

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EXAMINER	
HUYNH, SON P	

ART UNIT	PAPER NUMBER
2623	

DATE MAILED: 07/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/663,501	KOREHISA ET AL.	
	Examiner	Art Unit	
	Son P. Huynh	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *03* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *06 April 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *2 and 12-19* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *2 and 12-19* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *15 September 2000* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 4/6/2006 have been fully considered but they are not persuasive.

Applicant argues from the Specification on page 9 that the random time is used to modify the determined time in order to randomly distribute the load on the server. The random number generator (207) is disclosed in Figures 1 and 5, and described on pages 7-10. Additionally, the Abstract says in line 11 that "a random timing [is] generated based on a preset time." This provides sufficient written description of the claimed recitation (page 6, last paragraph).

In response, this argument is respectfully traversed. It is noted that Applicant has elected species 2: Figure 3 (see Response to Restriction Requirement, page 2–filed on September 10, 2004). According to MPEP, Applicant cannot shift to claiming another invention after an election is once made and action given on the elected subject matter (see MPEP 819 [R-3]). Therefore, Applicant's argument regarding Specification on page 9, Figures 1 and 5, described on pages 7-10 which illustrate another Inventions are improper. Furthermore, the Specification on page 9 describes access controller 202 monitor the random time of the random number generator 207 and the time information of the timer 201 and issues a command to the data server access section 203 when the time information match so that a data transfer request for downloading broadcast

program information is made to the data server 100 (page 9, paragraph 2). Thus, this section merely describes monitoring random time and the time information of the timer (which merely interpreted as a clock), and download the broadcast program information if the time is matched. In addition, the abstract merely says in line 11 "a random timing generated based on a preset time" as noticed by the Applicant. Neither Figure 3 and Specification section describes Figure 3 nor the Specification supports the limitation "wherein the random time is used to modify the determined time" wherein the "...determined time, set by said table," as claimed in claim 2.
Therefore, rejection under 35 U.S.C 112, first paragraph is properly applied and maintained.

Applicant further argues Knudson, Yuen, and Gordon fail to teach or suggest "a random number generator for generating a random time, wherein the random time is used to modify the determined time" (page 8, paragraph 2).

In response, this argument is respectfully traversed. Knudson discloses the program listings information is received by the program guide on user television equipment on demand, periodically, continuously, or any other suitable technique (col. 11, lines 7-22). Thus, the device that generates "on demand" request for program listings information is interpreted as a random number generator for generating a random time. Gordon discloses downloading and displaying program information at a determined time (e.g. displaying movies and music over news between the hours of 8:00 PM and 10:00 PM). However, the occurrence of a massive earthquake in California

could make news assets more important and in higher demand by the users during this time (8:00 PM to 10:00 PM). Therefore the operation center personnel can modify the priority assigned to news assets and movies during that time (col. 7, line 52-col. 8, line 4). Thus, random number generator for generating a random time is met by device for generating random times for news between the hours 8:00 PM to 10:00 PM (randomly generated in response to the occurrence of the massive earthquake), wherein "the random time is used to modify the determined time" is met by the random time for news (generated in response to the occurrence of the massive earthquake) is used to modify the determined time (time set to download and display movies and music at time slot between 8:00 PM and 10:00 PM).

Therefore, Knudson in view of Yuen and Gordon discloses a random number generator for generating a random time, where the random time is used to modify the determined time, as recited in claim 2.

For the reasons given above, rejections on claims 2, 12-19 are analyzed as discussed below.

Claims 1 and 3-11 have been canceled.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 2 and 12-19 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 2 recites, "**wherein the random time is used to modify the determined time**" (page 3, line 14). Applicant indicates that support for this amendment is provided throughout the specification as originally filed, specifically at pages 7-10 and Figures 1 and 5 (see Remarks/Argument, page 6, paragraph 2, lines 3-4). However, Examiner does not find support for such a recitation in the pages 7-10 of the specification as indicated by the Applicant. Figure 1 shows the broadcast program information receiving apparatus comprises a random number generator 207 for generating a random time; an access control section 220 having a timer 201 for setting time information and an access controller 202 for monitoring the time information of the timer 201 and the random number generator 207 for making a data transfer request to a data server access section 203 (figure 1 and page 7, lines 7-20; page 9, lines 1-15). Figure 5 shows a broadcast program information processing apparatus comprises means for downloading broadcast program information from a data server on a network at a

random timing based on the preset time (page 14, paragraph 3, lines 1-4). The broadcast program information processing apparatus comprises random number generator 207 for generating a random time when the time information match; the access controller 202 monitors the random time of the random number generator 207 and the time information from the timer 201, and issues an instruction to the data server access section 203 when the time information match so that a data transfer request is made to the data server 100 (page 17, paragraphs 2,4). Therefore, neither the pages that the applicant pointed to in the specification (pages 7-10), nor the entire specification shows support for the feature of "**wherein the random time is used to modify the determined time**" as recited in the claim.

In addition, the Applicant has elected Species 2: Figure 3 (see Response To Restriction Requirement, page 2, filed September 10, 2004). However, Applicant's using Specification that corresponds to another Inventions (Figures 1, 3, pages 7-10) – see page 6 last paragraph. Applicant cannot shift to claiming another invention after an election is once made and action given on the elected subject matter (see MPEP 819 [R-3]).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 2,12-15, 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Knudson et al. (US 6,536,041) in view of Yuen et al. (US 6,583,825) and further in view of Gordon et al. (US 5,920,700).

Regarding claim 2, Knudson teaches information processing apparatus (figure 1) comprising:

a data server (e.g. facility 22) having a database (program guide database 24) for storing program information (figure 1);

a plurality of program information receiving apparatus (television distribution facility 26– figure 1) having a means for accessing the data server and first means (telephone network links) for downloading the program information (col. 5, lines 32-52);

one or more devices (set top box, television, VCR), coupled to one or more of the plurality of program information receiving apparatus (26) by second means for downloading (cable links, satellite links, or fiber optic links – figure 1, col. 6, lines 26-36; col. 7, lines 36-63); Inherently, the first means (telephone network link) for downloading has a lower transmission rate than the second means (cable links, satellite link) for downloading. Knudson further discloses downloading the program information from the data server continuously, periodically, or on demand, or may be performed using any other suitable technique (col. 7, lines 9-11; col. 11, lines 7-18) broadly reads on the first means for downloading has access times to the data server and downloads the

program information from the data server at a determined time; the device for generating the on demand request for program listings information is broadly read on a random number generator for generating a random time. However, Knudson does not specifically disclose a table in which access times are set for each region, and downloads the information at a determined time set by the table.

Yuen discloses a table in which access times are set for each region, and downloads the information at a determined time, set by the table (e.g. host schedule packet in which access time are set for each geographical area, and downloads the information at a determined time, set by the host schedule packet, for example, broadcast electronic program guide at 10:30 A.M and again at 7:00 P.M- Col. 10, lines 1-15, figures 11-14). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Knudson to use the teaching of a table to store access time as taught by Yuen in order to automatically send out data in a predetermined order. However, Knudson in view of Yuen does not specifically disclose random time is used to modify the determined time.

Gordon discloses a random number generator for generating a random time (reads on device for generating random times for news (i.e. between the hours of 8:00 P.M and 10:00 PM with higher priority than news and music); wherein the random time is used to modify the determined time (generates random time for news instead of determined time for movies and music between 8:00 PM to 10:00 PM in response to the massive

earthquake – see col. 7, line 52-col. 8, line 4). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Knudson in view of Yuen to use the teaching as taught by Gordon in order at least to optimize transmission variable so that the end user gains access whenever desired (col. 2, lines 23-26) or to improve management of data transfer to meet user demands.

Regarding claim 12, Knudson in view of Yuen and Gordon discloses an apparatus as discussed in the rejection of claim 2. Knudson further discloses providing the program information on demand, or any other suitable technique (col. 11, lines 10-20). Necessarily, the determined time is a function of a random timing based on a preset time (timing based on time received a demand).

Regarding claim 13, Knudson in view of Yuen and Gordon discloses an apparatus as discussed in the rejection of claim 2. Knudson further discloses Main facility contains a processor to handle information distribution tasks (col. 7, lines 28-30) or program guide server at location other than television distribution facility (26 – col. 7, lines 13-16), for providing the program information continuously, periodically, or on demand, or may be any other suitable technique (col. 11, lines 10-20). Necessarily, the determined time is a function of a time set by a management server (either at the main facility or program guide server), which manages the data server so that the program information is provided periodically, or at the time a demand is received, or continuously.

Regarding claim 14, Knudson in view of Yuen and Gordon discloses an apparatus as discussed in the rejection of claim 2. Yuen further discloses a function of time set by a table (e.g., host schedule packet – figure 11), the table adapted to store access time for the server (e.g. broadcast electronic program guide at 10:30 A.M and again at 7:00 P.M – col. 10, lines 1-15).

Regarding claim 15, Knudson in view of Yuen and Gordon discloses an apparatus as discussed in the rejection of claim 14. Yuen further discloses the table includes region codes (e.g., region codes for host 0407) in which postal code are identifiers (col. 10, lines 1-64).

Regarding claim 18, Knudson in view of Yuen and Gordon discloses an apparatus as discussed in the rejection of claim 2. Knudson further discloses Main facility contains a processor to handle information distribution tasks (col. 7, lines 28-30) or program guide server at location other than television distribution facility (26 – col. 7, lines 13-16), for providing the program information continuously, periodically, or on demand, or may be any other suitable technique (col. 11, lines 10-20). Necessarily, the determined time is a function of a time set by a service provider (either at the main facility or program guide server) that is adapted to be connected to the program information receiving apparatus (distribution facility 26) so that the program information is provided continuously, or periodically.

Regarding claim 19, Knudson in view of Yuen and Gordon discloses an apparatus as discussed in the rejection of claim 2. Knudson further disclose the determined time is a function of a load distribution state of the data server (main facility), that downloads the program information at a determined access time (time set to periodically provide the program information or at the time a demand is received – col. 7, lines 10-30; col. 11, lines 10-20).

6. Claims 16-17, are rejected under 35 U.S.C. 103(a) as being unpatentable over Knudson et al. (US 6,536,041) in view of Yuen et al. (US 6,583,825) and Gordon et al. (US 5,920,700) as applied to claim 14 above, and further in view of Ganzer et al. (US 5,121,430).

Regarding claim 16, Knudson in view of Yuen and Gordon teaches an apparatus as discussed in the rejection of claim 14. Yuen further discloses particular geographic area (col. 4, lines 42-67). However, none of these references specifically discloses region codes in which telephone area codes are identifiers.

Ganzer discloses region codes in which telephone area codes are identifiers (col. 3, lines 41-50). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Knudson and Yuen and Gordon to use the teaching as taught by Ganzer in order to target advertisement to predetermined group of telephone users.

Regarding claim 17, Knudson in view of Yuen and Gordon teaches an apparatus as discussed in the rejection of claim 14. However, none of these references specifically discloses region codes in which codes for urgent warning broadcasts are identifiers.

Ganzer discloses region codes in which codes for urgent warnings broadcast are identifiers (alert code/types col. 3, lines 29-45; col. 6, lines 1-16; col. 7, lines 5-63). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Knudson and Yuen and Gordon to use the teaching as taught by Ganzer in order to notify user in advance of type of incoming event thereby minimizing damages.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son P. Huynh whose telephone number is 571-272-7295. The examiner can normally be reached on 9:00 - 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher S. Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Son P. Huynh

July 17, 2006

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